



Minor in Possession Legislation

Legal Training Unit

MCLA 436.33 and MCLA 436.33b were rewritten in PA 122 of 1995 which went into effect September 1, 1995. The following is a list of excerpts from the legislation:

1. Enforcement action against a retail licensee, or employee for selling or furnishing alcoholic liquor to a minor cannot be taken unless action is also taken against the minor.
 - a. Exceptions — Sting Operation.
(If the minor used to purchase alcohol is less than 18, the agency must obtain consent from the parent or guardian)
— Minor is no longer alive or not in this state at the time of the charge.
2. A person who knowingly sells or furnishes alcoholic liquor to a minor, or fails to make diligent inquiry as to the age of the person, shall be guilty of a misdemeanor.
 - a. Penalty — (If violator is not a retail licensee or employee)
First offense — Shall be fined \$1,000.00 and up to 60 days.
Second offense — Shall be fined \$2,500.00, up to 90 days in jail, and community service.
 - b. A person (who is not a retail licensee or employee) who sells or furnishes alcohol to a minor is guilty of a felony if the consumption of the alcohol results in the minor's death or an accidental injury that causes the minor's death.
Penalty — 10 years/\$5,000.00
3. False Identification
 - a. A person who furnishes fraudulent identification to a person less than 21 years of age, or

- b. A person less than 21 who uses false identification,
- c. To purchase alcoholic liquor,
- d. Is guilty of a misdemeanor.
4. A person less than 21 years of age shall not;
 - a. Purchase, or attempt to purchase,
 - b. Possess, or attempt to possess,
 - c. Consume, or attempt to consume,
 - d. Alcoholic liquor.
 - e. Misdemeanor
 - (1) 1st offense — \$100.00, community service, substance abuse screening.
 - (2) 2nd offense — \$200.00, community service, substance abuse screening, driver's license suspension (90 - 180 days).
 - (3) 3rd offense — \$500.00, community service, substance abuse screening, driver's license suspensions (180 days - 1 year).
5. PBT
 - a. An officer who has **reasonable cause** to believe a person less than 21 years of age has consumed alcoholic liquor may require the person to submit to a PBT.
 - b. If the results are **.02 % or more**, it is legally presumed that the person consumed or possessed alcoholic liquor.
 - c. If the minor refuses the lawful demand of the officer to submit to a PBT = civil infraction.

6. Notice
 - a. If the minor in violation of the section is less than 18 years of age and not emancipated,
 - b. The law enforcement agency must notify the parent, custodian, or guardian of the violation.
 - c. Notice must be given within 48 hours.
 - d. According to departmental policy, notice should be given in person or by TX. If contact cannot be made by the end of the shift, the officer should send a letter by first class mail.
 - e. In reality, this notice requirement only affects 17 year olds. If the individual is under 17 years old, he/she is considered a juvenile and the officer must complete a UD-23 and obtain a parents signature for release.

Allowing Consumption or Possession of Alcohol or Controlled Substance at Social Gatherings

In a related statute that went into effect June 1, 1994 the legislature imposed penalties for those who allow consumption or possession of alcoholic liquor by minors on their property. The following is a list of excerpts from MCLA 750.141a.

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Minor Legislation . . .

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1. An owner, tenant, or other person having control over any premises, residence, or other real property shall not do either of the following:
 - a. Knowingly allow a minor (individual less than 21 years of age) to consume or possess an alcoholic beverage at a social gathering on or within that premise, residence, or other real property.
 - b. Knowingly allow any individual to consume or possess a controlled substance at a social gathering on or within that premises, residence, or other real property.
2. **Social gathering** — 2 or more individuals for any purpose, unless all are members of the same household or immediate family.
3. Evidence of all the following give rise to a rebuttable presumption that the defendant violated the act:
 - a. Defendant had control over the residence, premises, or other real property.
 - b. Defendant knew that the minor was consuming or in possession of an alcoholic beverage or knew that an individual consumed or possessed a controlled substance at a social gathering.
 - c. Defendant failed to take corrective action.

Corrective action includes any of the following:

- (1) Demand that the minor or individual stop. If the activity continues, take additional steps under 2 or 3.
- (2) Make a prompt report to the police.
- (3) Make a prompt report to someone with a higher degree of authority over the property.

4. Penalty

- a. First offense — 30 day misdemeanor/\$1000.00.
- b. Second or subsequent violations — 90 day misdemeanor/\$1000.00.

Finally, both statutes specifically mention "alcoholic liquor". MCLA 436.2 states:

Alcoholic liquor means any spirituous, vinous, malt, or fermented liquor, liquids and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing **1/2 of 1%** or more of alcohol by volume which are fit for use for beverage purposes.

For the above alcoholic liquor violations to occur, the substance must contain 1/2 of 1% or more of alcohol by volume. ■



MSP Chivalry

The police officer of the middle-ages was none other than the Knight. It was recognized that those who took up this calling needed a combination of **strength** and **virtue**. In fact, one scholar of the day, Erasmus, wrote a handbook for the would-be Knight which has valid points even for today.

1. In this life it is necessary that we be on our guard. We must constantly be in a state of preparedness. Our primary concern must be to keep the mind ready.
2. Know the nature of the criminal to be encountered. When he appears peaceful or when he is in flight at that very moment it should be assumed that he is preparing for an attack.
3. Nothing is more important in training than a thorough knowledge of the weapons to be employed. Always having the weapons close at hand is of the utmost importance.
4. Each situation has its own appropriate remedy. If you want to be successful, you must have a plan of action. Everything should be carefully figured out, so that when

the time comes for you to make use of your plan, you will know exactly what to do.

5. Learning and contemplation are inseparable. Learning fortifies the mind with ethics and virtue. Contemplation directs this knowledge. Sensible reading is a good preparation; pick out from books whatever is best. In contemplation do not worry over everything at once; contemplation upon one idea at a time brings more wisdom.
6. The crown of wisdom is that you know yourself. No one should hold the fantastic opinion that he knows himself well enough. Our war is within ourselves. There is but one way to attain peace; we must wage war with our own vices. We should be guided by reason rather than by passion.
7. You must maintain at all times a high regard for the law. We should not make the mistake of assuming that if we practice most of the virtues, it will then be permissible to have one or two small vices. The enemy (vice) you ignore the most is usually the one who conquers you.

8. Do not consider yourself to be better than another. You are merely more fortunate, and more fortunate in such a way that you are under greater obligation.
9. We must be ever inflamed with the hope and conviction of final victory. Treat each battle as though it were your last, and you will finish, in the end, victorious.
10. In all earthly engagements a reputation for bravery is the goal. A good soldier never admits defeat. Do not despair even if you have fallen. The good soldier's painful wounds spur him to gather his strength and fight harder than before.
11. In trying to appear brave, nothing manifests a weaker will or feebler mind than anger. Anger is a false imitation of fortitude. The more a person has done harm, the more violent and insulting he is — in short, the more wicked he is — the more careful you should be not to imitate him. The only praiseworthy anger is against crime, not against man. ■

— To Punch or Not to Punch —

Officer Safety is Increased by Using the Palm Heel Strike

Defensive Tactics



Training Unit

“Train hard, fight easy.”

Consider this scenario: *A suspect is violently resisting arrest. In the struggle, the officer delivers a punch to the suspect's head, and the officer's hand is injured.*

Punching

Injuring one's hand in a confrontation is by no means uncommon. In fact, strong-hand injuries caused by punching are the leading arrest-related injury in law enforcement. When fragile knuckles meet bony skull during a confrontation, the skull always wins.

Hand Injuries

The implications of such injuries are quite serious. An officer's life could be placed in jeopardy during the confrontation if their strong-hand (shooting hand) is injured. Officers with seriously injured hands were asked if they thought they could get a solid grip on their firearms after the injury; the answer was most often “No.” Grip strength comes from the ulnar (pinkie side) of the hand. A fracture to the fifth metacarpal (between the knuckles of the middle finger and pinkie) significantly affects your grip. It would be much easier to disarm an officer who has experienced this fracture.

Contamination

Another serious problem with punching is the risk of breaking the skin. The skin on the top side of the hand is easily cut because it is very thin. When the skin breaks you increase the chances of introducing infectious germs from the suspect to your body.

The Palm Heel Strike

While it would not be practical to say that punching should never be used by law enforcement officials

(there are just too many variables in the field), officers should know that there is an alternative to punching that is safer and more effective: the Palm Heel Strike. The skin on the palm is thick and the heel of the palm impacting an area distributes the contact, making it difficult to break the skin. Palm heel strikes don't appear to be as violent as clenching the fist and striking someone. Having the hands in an open position makes the strike seem more like a push, while at the same time protecting the officer from injury.

Energy Transfer

Known as the “focused punch” in the martial arts, the palm heel strike is effective when utilizing the Fluid Shock Wave Principle. To increase the energy transfer, velocity of the strike is less important than the mass behind the strike. This strike is delivered in a stiff arm motion and the officer should utilize his own body mass by rotating at the hip when delivering the strike. This strike will essentially stop a suspect's forward momentum while at the same time jarring or stunning their body.

Hand Position

To properly execute a palm heel strike, you must have the correct hand position:

1. The hand is pulled back as far as possible, locking the wrist
2. The fingers should be allowed to curl slightly forward
3. The palm and fingertips should face the target
4. Contact is made with the very bottom of the palm just before the wrist.

Target Areas

A final consideration is what part of the body to strike. Beginning as children — via television, movies, and play ground scuffles — we are brought to believe that striking the face is the target of choice. While face strikes cause a lot of visible trauma (bruising, swelling, bleeding), they seldom impair the suspect's attack. While it may be necessary to strike the face if it is the only target available, the suspect may be more greatly affected if struck in the middle of the upper torso (the chest area). Not only will this have a better chance of slowing the suspect down, it is likely to cause less physical and “visual” damage.

Use of Force Continuum

Remember, as always, follow the Use of Force Continuum and use a strike only when you deem that a lesser level of control will not be effective or safe.

Levels of Control Review:

1. **Officer Presence**
2. **Verbal Direction**
3. **Empty Hand Control**
 - Soft Empty Hand Control, i.e., holds, takedowns, joint locks, etc.
 - Hard Empty Hand Control, i.e., **palm heel strike**, kicks, pressure point control, etc.
4. **Intermediate Weapons**
 - Soft Intermediate Weapon Control, i.e., impact weapon joint locks and come-a-longs
 - Hard Intermediate Weapon Control, i.e., impact weapon strikes, CS/OC Repellent
5. **Lethal Force**, i.e., deadly force action

